

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

|                           |   |                |
|---------------------------|---|----------------|
| UNITED STATES OF AMERICA, | ) |                |
|                           | ) |                |
| Plaintiff,                | ) |                |
|                           | ) |                |
| v.                        | ) |                |
|                           | ) | Civil Case No. |
| THOMAS G. BANDZUL,        | ) |                |
|                           | ) |                |
| Defendant.                | ) |                |

COMPLAINT FOR PERMANENT INJUNCTION

The United States of America alleges as follows:

1. The United States brings this complaint to enjoin Thomas G. Bandzul and any other person working in concert or participation with him from directly or indirectly:
  - (a) preparing, assisting in the preparation of, or directing the preparation of federal income tax returns, amended returns, or other tax-related documents and forms, including any electronically-submitted tax returns or tax-related documents, for any entity or person other than himself;
  - (b) engaging in activity subject to penalty under 26 U.S.C. §§ 6694, 6695, 6700, and 6701; and
  - (c) engaging in conduct that substantially interferes with the proper administration and enforcement of the tax laws.
2. This action has been requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General of the United States pursuant to 26 U.S.C. §§ 7401, 7402, 7407, and 7408.

### **Jurisdiction and Venue**

3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(a), 7407, and 7408.
4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 and 26 U.S.C. § 7407(a) because Bandzul resides within this judicial district, prepares tax returns within this judicial district, and a substantial part of the events giving rise to this claim occurred within this judicial district.

### **Summary of Defendant's Activities**

5. Bandzul resides in Atlantic Beach, Florida. He has a Bachelors of Science degree in accounting and a Master of Business Administration degree from Western New England College.
6. Operating out of his residence, Bandzul prepares Individual Income Tax Returns (Form 1040) for other taxpayers. Bandzul is currently operating and has recently distributed marketing materials seeking clients for the 2012 tax year.
7. Since at least 2007, most of the income tax returns prepared by Bandzul have understated the filing taxpayer's liability by creating or inflating deductions or falsely claiming credits.
8. Most of the returns prepared by Bandzul understate the filing taxpayer's liability through primarily two schemes.
9. In one scheme, Bandzul prepares returns that fabricate or wrongfully inflate itemized deductions reported on a Schedule A (such as the deduction for mortgage interest paid or for cash contributions to charity) or business expense deductions reported on a Schedule C (such as expenditures for supplies or office expenses).

10. In the other scheme, Bandzul prepares returns that falsely claim tax credits for education expenses that were not actually incurred by the taxpayer. In general, education credits are claimed on a Form 8863 which is filed with an individual income tax return. The credits are generally "Lifetime Learning Credit" or "Hope Scholarship Credit" authorized by 26 U.S.C. § 25A, or an "American Opportunity Credit," which modifies the Hope Scholarship Credit in years 2009 through 2012.
11. In addition to preparing terms under his own name, Bandzul has falsely identified some of his clients' paid tax return preparer as his wife, Karen L. Bandzul, or "Tom Jung."
12. Bandzul has also prepared returns with "NON-PAID PREPARER" stamped in the section of the return for identifying the paid tax return preparer.
13. IRS records show that, from 2007 to the present, Bandzul prepared approximately 5,316 returns, comprised of the following number of returns in each year:

| <u>Year</u> | <u>Number of Returns</u> |
|-------------|--------------------------|
| 2007        | 816                      |
| 2008        | 1029                     |
| 2009        | 1279                     |
| 2010        | 840                      |
| 2011        | 1352                     |

14. To date, the IRS has completed examinations of over 250 returns prepared by Bandzul. Of those returns, the IRS determined that over 90% understated the filing taxpayer's liability. Additional examinations remain ongoing.
15. Based upon the examinations concluded to date, the IRS estimates that returns prepared by Bandzul understate each filer's tax liability by an average of \$3,356.00 each.
16. In some instances, Bandzul did not show the taxpayer the return he electronically filed on the taxpayer's behalf. Instead, Bandzul showed the taxpayer a false, unfiled return

indicating that the taxpayer was due a smaller refund than the refund claimed on the filed return. Bandzul would then file the return claiming the larger refund and, after the refund was paid, Bandzul would remit the smaller amount (shown on the unfiled return) to the taxpayer, and retain the remaining funds.

### **Examples of Bandzul's Fraudulent Schemes**

17. The returns described in paragraphs 18 through 48, below, demonstrate the schemes employed by Bandzul on hundreds of returns he has prepared for other taxpayers.

#### *Tax returns prepared for Leah Yisrael*

18. Bandzul prepared tax returns for Leah Yisrael for the years 2010 and 2011.
19. For the 2010 tax year, Yisrael met Bandzul at his residence, where she provided him her tax documents and he prepared her return.
20. Yisrael's 2010 return, as prepared by Bandzul, claimed the following false or fraudulent credits or deductions:

| Credit or deduction                             | Amount Claimed |
|---|----------------|
| Lifetime Learning Credit                        | \$1,500        |
| American Opportunity Education Credit           | \$1,000        |
| State Sales Tax Deduction (Schedule A)          | \$1,718        |
| Cash Charitable Donation Deduction (Schedule A) | \$7,855        |

21. Yisrael was not entitled to the deductions or credits identified in the table in paragraph 20, above, and did not provide any information to Bandzul to suggest otherwise.
22. Bandzul presented Yisrael with a 2010 return that claimed an American Opportunity Credit of \$700. Bandzul did not file this return, but instead filed a return claiming a credit

of \$1000, as indicated in the table above. Bandzul retained the additional \$300 from the resulting refund instead of remitting it to Yisreal.

23. The IRS examined Yisrael's 2009 income tax return and disallowed the credits and deductions in the table in paragraph 20, above.
24. Yisrael agreed to the IRS' determination of her 2009 income tax liabilities and provided an affidavit stating that the deductions and credits identified in the table in paragraph 20, above, were false.
25. The corrections to Yisrael's 2010 return resulted in an increase in tax due of \$3,835.
26. The paid preparer on Yisrael's 2010 income tax return was identified as Karen L. Bandzul, PTIN P00759457.
27. For the 2011 year, Yisrael faxed her tax documents to Bandzul.
28. Yisrael's 2011 return, as prepared by Bandzul, claimed the following false or fraudulent credits or deductions:

| Credit or deduction                             | Amount Claimed |
|---|----------------|
| Lifetime Learning Credit                        | \$1,467.00     |
| American Opportunity Education Credit           | \$978.00       |
| Cash Charitable Donation Deduction (Schedule A) | \$7,402.00     |

29. Yisrael was not entitled to the deductions and credits identified in the table in paragraph 28, above, for the 2011 tax year. She had provided no information to Bandzul to suggest otherwise. On audit, the IRS disallowed these credits and the deduction.
30. Bandzul presented Yisrael with a 2011 return that claimed an American Opportunity Credit of \$578.00. Bandzul did not file this return, but instead file a return claiming a

credit of \$978.00, as indicated in the table above. Bandzul retained the additional \$400 from the resulting refund instead of remitting it to Yisreal.

31. The corrections to Yisrael's 2011 return resulted in an increase in tax due of \$3,555.
32. The paid preparer on Yisrael's 2011 income tax return was identified as Tom Jung, PTIN P01536234.

*Tax return prepared for Konstantsin Yakubouski and Jessica Wright*

33. Bandzul prepared a tax return for Konstantsin Yakubouski and Jessica Wright for the year 2010.
34. Bandzul falsely represented to Wright that Bandzul had been employed by the Internal Revenue Service.
35. The return prepared by Bandzul to report Yakubouski and Wright's joint income tax liabilities falsely claimed an American Opportunity tax credit in the amount of \$1,837.00 and Lifetime Learning credits in the amount of \$2,756.00. The return also claimed an undocumented deduction for "Supplies Expense" in the amount of \$2,781.00 on a Schedule C "Profit or Loss from Business (Sole Proprietorship)," for a consulting business purportedly owned by Wright.
36. The IRS examined Yakubouski and Wright's 2010 income tax return and disallowed the credits and deduction described in paragraph 35, above, resulting in a \$6,149.20 increase in tax liability.
37. Bandzul instructed Wright to misrepresent to the agent conducting the IRS examination of the 2010 return that documents supporting her supplies expense deduction had existed at the time the return was prepared but had since been lost.

38. Wright had never possessed or provided any documents to Bandzul indicating that she had incurred any supplies expense.

*Tax returns prepared for Anita Perry*

39. Bandzul prepared tax returns for Anita Perry for the tax years 2009 and 2010. For the year 2009, Perry faxed her tax documents to Bandzul because he had prepared returns for her previously and already had her personal information.
40. Perry's 2009 return, as prepared by Bandzul, claimed the following false or fraudulent credits or deductions:

| Credit or deduction                | Amount Claimed |
|------------------------------------|----------------|
| Home Mortgage Interest Deduction   | \$8,797.00     |
| Business Expense Deduction         | \$1,978.00     |
| Cash Charitable Donation Deduction | \$3,525.00     |

41. Perry was not entitled to the deductions for the tax year 2009 identified in the table in paragraph 40, above. She did not own a home or operate a business and provided no information suggesting otherwise to Bandzul. The IRS disallowed all but \$50 of the claimed charitable deduction, and proposed a tax increase of \$3,225. Perry agreed to the proposed increase.
42. The 2010 tax return Bandzul prepared for Perry claimed false education credits. The IRS disallowed the credits, resulting in a proposed tax increase of \$3,118 to which Perry agreed.

43. Bandzul did not provide Perry with copies of her 2009 and 2010 returns at the time of filing and also refused to provide her with a copy of her returns when she was contacted by the IRS in 2012.
44. The paid preparer on Perry's 2009 and 2010 income tax returns was identified as Karen L. Bandzul, PTIN P00759457.

*Tax returns prepared for Carlos Irizarry*

45. Bandzul prepared tax returns for Carlos Irizarry for the years 2010 and 2011.
46. The returns prepared by Bandzul claimed false deductions and credits similar to those described above. The IRS disallowed the credits and deductions, resulting in a proposed tax increase of \$735.00 for 2010 and \$1,875.00 for 2011.
47. Upon being contacted by the IRS, Irizarry discovered that Bandzul had provided him with false tax returns that had not actually been filed on his behalf. Instead, Bandzul had filed a tax return for each year that, without Irizarry's knowledge, that falsely inflated a claim to the American Opportunity education credit. Bandzul provided Irizarry with a false statement showing that Irizarry was due a refund in the lesser amount shown on the unfiled return. Bandzul retained the additional amounts from the resulting refund -- \$300 in 2010 and \$500 in 2011 -- instead of remitting it to Irizarry.
48. Irizarry provided an affidavit stating that the return he had been provided by Bandzul was not the one filed on his behalf and identifying the documents he had provided to Bandzul for preparation of his tax returns.
49. The paid preparer on Irizarry's 2010 income tax return was identified as Karen L. Bandzul, PTIN P00759457.



50. The paid preparer on Irizarry's 2011 income tax return was identified as Tom Jung, PTIN P01536234.

**Harm to the United States**

51. Bandzul has caused harm to the United States by creating substantial revenue losses through understating the liabilities on the returns he prepares through the schemes described above.
52. In addition, Bandzul's actions have forced the United States to expend significant resources to examine and correct the returns he prepared.
53. In many instances, Bandzul's clients had taxes withheld during the reporting years and Bandzul's understatement of those clients' liabilities caused the United States to issue refunds that the clients were not entitled to receive.
54. Based on the returns it has examined to date, the IRS estimates that the United States has lost as much as \$17.8 million from the understatement of liabilities on returns filed by Bandzul. This figure does not include the substantial cost of examining the returns and collecting the understated liabilities.

**COUNT I**

INJUNCTION UNDER 26 U.S.C. § 7407  
FOR CONDUCT SUBJECT TO PENALTY UNDER 26 U.S.C. §§ 6694 AND 6695

55. The United States incorporates by reference the allegations in paragraphs 1 through 54.
56. Section 7407 of the Internal Revenue Code authorizes a district court to enjoin a person who is a tax return preparer from engaging in certain prohibited conduct or from further acting as a tax return preparer. The prohibited conduct justifying an injunction includes, *inter alia*, the following:

(a) Engaging in conduct subject to penalty under 26 U.S.C. § 6694, which penalizes a tax return preparer who prepares a return that contains an understatement of tax liability or an overstatement of a refund due to an unreasonable position that the return preparer knew or should have known was unreasonable; and

(b) Engaging in any other fraudulent or deceptive conduct which substantially interferes with the proper administrations of the Internal Revenue laws.

57. In order for a court to issue such an injunction, the court must find that:

(a) The tax return preparer engaged in the prohibited conduct; and

(b) Injunctive relief is appropriate to prevent the recurrence of such conduct.

58. If a tax return preparer's conduct is continual or repeated and the court finds that a narrower injunction would not be sufficient to prevent the preparer's interference with the proper administration of the internal revenue laws, the court may permanently enjoin the person from acting as a tax return preparer. *See* 26 U.S.C. § 7407(b).

59. Bandzul has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6694 by preparing returns that understate the filers' tax liabilities and overstate their refunds based on unreasonable and reckless positions. As described in paragraphs 5 through 50, above, Bandzul prepares returns that claim deductions for expenses that were not incurred by the taxpayer and credits to which the taxpayer is not entitled. Bandzul did so with the knowledge that the positions he took on the returns were unreasonable and lacked substantial authority. Bandzul has thus engaged in conduct subject to penalty under 26 U.S.C. § 6694(a).

60. Additionally, Bandzul engaged in conduct subject to penalty under 26 U.S.C. § 6694(b) by willfully understating his customers' liability and acting with a reckless and intentional disregard of rules and regulations.
61. Bandzul has continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6695(a) by failing to furnish a copy of the return to the taxpayer as required by 26 U.S.C. § 6107(a).
62. Bandzul continually and repeatedly engaged in conduct subject to penalty under 26 U.S.C. § 6695(b) by failing to properly identify himself and sign returns he prepared.
63. Bandzul has continually and repeatedly engaged in conduct that violates 26 U.S.C. §§ 6694 and 6695 and which substantially interferes with the administration of the internal revenue laws. Injunctive relief is necessary to prevent this misconduct because, absent an injunction, Bandzul is likely to continue preparing false federal income tax returns.
64. Bandzul continues to prepare tax returns and has already taken steps to recruit clients for the current filing season. Bandzul recently distributed marketing materials inducing past clients to retain Bandzul to prepare their return for the 2012 taxable year and offering substantial financial benefits to existing clients who referred new customers to Bandzul.
65. A narrower injunction would be insufficient to prevent Bandzul's interference with the administration of the federal tax laws. Bandzul prepares returns understating the filer's liability through multiple schemes, provides false information to the taxpayers named on the returns, and uses false names to file the returns. In addition, the IRS may not yet have identified all of the schemes used by Bandzul to understate income. Failure to permanently enjoin Bandzul will require the IRS to spend additional resources to uncover all of Bandzul's future schemes. The harm resulting from these schemes includes both the

expenditures of these resources and the revenue loss caused by the improper deductions and credits Bandzul claims on returns he prepares. Accordingly, only a permanent injunction is sufficient to prevent future harm. Barron should be permanently enjoined from acting as a tax return preparer

COUNT II:  
INJUNCTION UNDER 26 U.S.C. §7408  
FOR CONDUCT SUBJECT TO PENALTY UNDER 26 U.S.C. § 6701

66. The United States incorporates by reference the allegations contained in paragraphs 1 through 54.
67. Section 7408 of the Internal Revenue Code authorizes a district court to enjoin any person from engaging in conduct subject to penalty under 26 U.S.C. § 6701, which penalizes a person who aids or assists in the preparation of tax returns that the person knows will result in an understatement of tax liability.
68. Bandzul has engaged in conduct subject to penalty under 26 U.S.C. § 6701 by preparing or directing the preparation of income tax returns that claim an education credit when he knew that the taxpayer was not entitled to the credit, or the credit in the full amount claimed, and by preparing returns that claim deductions he knew to be false or inflated.
69. Bandzul's repeated actions such as those described in paragraphs 18 through 50, above, fall within 26 U.S.C. § 7408(c)(1), and injunctive relief is appropriate to prevent recurrence of this conduct.
70. Accordingly, Bandzul should be permanently enjoined from preparing any returns that improperly claim or inflate a claim to the education credit or claim false or inflated deductions.

COUNT III:  
INJUNCTION UNDER 26 U.S.C. §7402 FOR UNLAWFUL  
INTERFERENCE WITH THE ENFORCEMENT OF INTERNAL REVENUE LAWS

71. The United States incorporates by reference the allegations contained in paragraphs 1 through 54.
72. Section 7402(a) of the Internal Revenue Code authorizes a court to issue orders of injunction as may be necessary or appropriate for the enforcement of internal revenue laws.
73. Bandzul has repeatedly and continually engaged in conduct that interferes substantially with the administration and enforcement of internal revenue laws.
74. If Bandzul continues to act as a tax return preparer, his conduct will result in irreparable harm to the United States, and the United States has no adequate remedy at law.
75. Bandzul's conduct has caused and will continue to cause substantial tax losses to the United States Treasury, much of which may be undiscovered and unrecoverable. Moreover unless Bandzul is enjoined from preparing returns, the IRS will have to devote substantial and unrecoverable time and resources auditing his clients individually to detect false, fraudulent, or overstated refund claims in future returns.
76. The detection and audit of erroneous tax credits and deductions claimed on returns prepared by Bandzul will be a significant burden on IRS resources.

WHEREFORE, the plaintiff, United States of America, respectfully prays for the following:

A. That the Court find that Thomas G. Bandzul has repeatedly and continually engaged in conduct subject to penalty under 26 U.S.C. §§ 6694 and 6695 and that injunctive relief is appropriate under 26 U.S.C. § 7407 to prevent recurrence of that conduct;

B. That the Court find that Bandzul has repeatedly and continually engaged in conduct subject to penalty under 26 U.S.C. § 6701 and that injunctive relief is appropriate under 26 U.S.C. § 7408 to prevent recurrence of that conduct;

C. That the Court find that Bandzul has repeatedly and continually engaged in conduct that substantially interferes with the proper enforcement and administration of the internal revenue laws, and that injunctive relief against Bandzul is appropriate to prevent the recurrence of that conduct pursuant to 26 U.S.C. § 7402(a);

D. That the Court enter a permanent injunction prohibiting Bandzul or any other person working in concert or participation with him from directly or indirectly:

- (1) preparing, assisting in the preparation of, or directing the preparation of federal income tax returns, amended returns, or other tax-related documents and forms, including any electronically-submitted tax returns or tax-related documents, for any entity or person other than himself;
- (2) engaging in activity subject to penalty under 26 U.S.C. §§ 6694, 6695, 6700, and 6701; and
- (3) engaging in conduct that substantially interferes with the proper administration and enforcement of the tax laws;

E. That the Court enter an injunction requiring Bandzul:

- (1) At his own expense, to send by certified mail, return receipt requested, a copy of the final injunction entered against him in this action, as well as a copy of the Complaint setting forth the allegations as to how Bandzul fraudulently prepared federal income tax returns, to each person for whom he prepared federal income tax returns or any other federal tax forms after January 1, 2008;

2. To turn over to the United States copies of all returns or claims for refund that he prepared after January 1, 2008;

3. To turn over to the United States a list with the name, address, telephone number, email address, and social security number or other taxpayer identification number of all customers for whom he prepared returns after January 1, 2008;

4. To file a sworn statement with the Court evidencing his compliance with the foregoing directives within forty-five (45) days of entry of the final injunction in this action; and

5. To keep records of his compliance with the foregoing directives, which may be produced to the Court, if requested, or the United States pursuant to paragraph F, below;

F. That the Court enter an order allowing the United States to monitor Bandzul's compliance with the injunction, and to engage in post-judgment discovery in accordance with the Federal Rules of Civil Procedure; and

G. That the Court grant the United States such other and further relief as the Court deems appropriate

Dated: January 15, 2012

Respectfully submitted,

KATHRYN KENEALLY  
Assistant Attorney General  
Tax Division, U.S. Department of Justice

By: GLJ  
GREGORY L. JONES  
Oregon State Bar No. 06580  
Trial Attorney, Tax Division  
U.S. Department of Justice  
Post Office Box 14198  
Ben Franklin Station  
Washington, D.C. 20044  
Telephone: (202) 305-3254  
Fax: (202) 514-9868

Of counsel:  
ROBERT E. O'NEILL  
United States Attorney  
Middle District of Florida